

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated the 26th day of May, 1998

BEFORE

THE HON'BLE Mr. JUSTICE A.J. SADASHIVA

W.P.No.34358/96

BETWEEN:

M. Basavaraj, since deceased
by his L.Rs --

1. Purushothama Prabhu,
S/o late M. Basavaraj,
aged about 36 years.
2. Udaya Prabhu,
S/o late M. Basavaraj,
aged about 26 years.
3. Yogesh Prabhu,
S/o late M. Basavaraj,
aged about 23 years.
4. Mohan, S/o late M. Basavaraj,
aged about 21 years.
5. Ms. B. Sunitha Devi,
D/o late M. Basavaraj,
aged about 19 years.

All the petitioners are
residents of Gandanahalli,
K.R. Nagar taluk,
Mysore District

.. PETITIONERS

(By Sri K. Nageshwara, Advocate)

A N D

1. State of Karnataka,
represented by its Secretary,
Dept. of Revenue, M.S. Bldg.,
Bangalore.
2. Special Dy. Commissioner, Mysore
District, Mysore.

3. Asst. Commissioner,
Hunsur Sub-Division,
Hunsur, Mysore Dist

245
.. RESPONDENTS

(Sri K.H. Jagadeesh, G.A.)

Writ petition filed under Arts. 226 and 227 of the Constitution of India praying to quash Ann.C dated 9-2-94 and Ann.D dated 17-3-95 as illegal and to declare that all further proceedings in pursuance of Ann.D is illegal.

This petition coming on for preliminary hearing in 'B' group this day, the Court made the following:-

O R D E R

The petitioners have filed this petition for quashing the notification issued under Sec.4(1) and Sec.6(1) of the Land Acquisition Act, 1894 (hereinafter called 'the Act') in so far as it relates to 10 guntas of land in Sy.No.70/4 of Manuganahalli, Kasaba Hobli, K.R.Nagar Taluk, Mysore District.

The learned counsel appearing for the petitioners contended that the impugned notifications are liable to be quashed on the ground that they have not applied their mind as to the availability of alternate land and the declaration having been issued after the expiry of one year from the date of publication of notification under Sec.4(1) of the Act and for want of enquiry under Sec.5A of the Act.

The respondents in their statement of

2

of objections have disputed all the contentions. They contend that there is no alternative land ~~is~~ available to form a road for the APMC yard leading ^{to} ~~to~~ Hassan-K.R. Nagar road. It is specifically contended that the petitioners did not file their objections to Sec.4(1) notification even after service of notice on them and therefore, there was no occasion to hold an enquiry under Sec.5A of the Act in so far as it relates to the land of the petitioners. They have further pleaded that the preliminary notification was published not only in the Gazette, but also published in two daily news papers on 14-4-94 and 19-4-94 respectively and also in the village chawadi on 20-7-94. Declaration under Sec.6(1) was made on 17-3-1995, within one year from the date of publication of the preliminary notification. The petitioners did not place any material on record to the contrary.

For the reasons aforesaid, this petition fails and accordingly dismissed. In the circumstances of the case there is no order as to costs.

Sri K.H. Jagadeesh, Govt. Advocate is permitted

24

permitted to file memo of appearance for the
respondents within four weeks.

Sd/-
JUDGE

skn/-050698

